

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

WILLIAM J. MURRAY,

Plaintiff,

v.

TXU CORP., *et al.*

Defendants.

MISCELLANEOUS BUSINESS

POCKET

04 MBD 10069

(Related to Cause
No. 3:03 CV-088P, U.S. District
Court, Northern District of Texas,
Dallas Division)

Civil Action No.

DEFENDANTS' MOTION TO COMPEL PRODUCTION OF DOCUMENTS

Pursuant to Local Rules 40.4 and 37.1 of the United States District Court for the District of Massachusetts, and Rule 37(a) of the Federal Rules of Civil Procedure, Defendants TXU Corp., TXU Energy Company LLC and TXU Portfolio Management Company LP, f/k/a TXU Energy Trading Company LP (collectively, "Defendants") respectfully move this Court to compel American National Power, Inc. ("ANP"), Plaintiff's former employer, to comply with a valid subpoena requesting that ANP produce documents pertaining to Plaintiff's employment and termination thereof.

As grounds for this motion, Defendants state that the above-captioned action is currently pending in the United States District Court for the Northern District of Texas, Dallas Division (styled as Cause No. 3:03 CV-088P). On or about January 15, 2004, Defendants served ANP with a subpoena issued by the United States District Court for the District of Massachusetts, requesting that it produce for inspection and copying documents pertaining to the Plaintiff's employment. ANP's employment files are stored at their Marlboro, Massachusetts office.

Defendants have conferred with ANP, and despite efforts to narrow areas of disagreement, ANP has not, to date, produced any documents in response to the subpoena.

WHEREFORE, for the foregoing reasons and those set forth in the accompanying Memorandum of Law In Support of Defendants' Motion to Compel Production of Documents and the Exhibits attached thereto, Defendants respectfully request that this Court grant their Motion to Compel Production of Documents, impose attorneys' fees and costs upon ANP, and grant such other and further relief it deems just and appropriate.

REQUEST FOR ORAL ARGUMENT

Pursuant to Local Rule 7.1(D), Defendants respectfully request oral argument on their Motion to Compel Production of Documents.

Dated: March 5, 2004

Respectfully submitted,

**TXU CORP., TXU ENERGY COMPANY
LLC, AND TXU PORTFOLIO
MANAGEMENT COMPANY, LP, F/K/A
TXU ENERGY TRADING COMPANY LP**

By Their Attorneys



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Counsel for Defendants

**CERTIFICATION PURSUANT TO
LOCAL RULES 7.1(A)(2) AND 37.1**

Pursuant to Local Rules 7.1(A)(2) and 37.1, I, Patricia S. Gill, counsel for Defendants, hereby certify that I have conferred in good faith with counsel for American National Power, Inc., in attempt to resolve or narrow the issues in this Motion, but have been unable to resolve this matter without the involvement of the Court.



Patricia S. Gill

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the above and foregoing *Defendants' Motion to Compel Production of Documents, Memorandum of Law in Support of Defendants' Motion to Compel Production of Documents* and Exhibits Thereto, and *Proposed Order*, were served, on this 5th day of March, 2004 upon:

Plaintiff William J. Murray's Counsel of Record, Hal K. Gillespie, Esq.
and Yona Rozen, Esq., Gillespie, Rozen & Watsky, 3402 Oak Grove
Avenue, Suite 200, Dallas, Texas, 75204 (via certified mail).

Nona Pucciariello, Esq. Assistant General Counsel, American National
Power, Inc., 62 Forest Street, Suite 102, Marlborough, Massachusetts,
01752 (via overnight delivery).

A handwritten signature in black ink, appearing to read "Laura M. Stock", written over a horizontal line.

Laura M. Stock

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